

ESTTA Tracking number: **ESTTA421503**

Filing date: **07/25/2011**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

| | |
|---------------------------|--|
| Proceeding | 91196825 |
| Party | Plaintiff Shelly D. Moeller |
| Correspondence Address | DONN K HARMS AMERICAN PATENT & TRADEMARK LAW CENTER INC 12702 VIA CORTINA , SUITE 100 DEL MAR, CA 92014 UNITED STATES karen@patentpending.com |
| Submission | Other Motions/Papers |
| Filer's Name | Karen Convery |
| Filer's e-mail | karen@patentpending.com, jlinowitz@LLBL.com |
| Signature | /karen convery/ |
| Date | 07/25/2011 |
| Attachments | Rockstyle Motions.pdf (5 pages)(68634 bytes) |

IN THE MATTER OF:
Application No.: 77917923
Mark: ROCKSTYLE
Int'l. Classes: 014
Filing Date: 22 January 2010
Publication Date: 8 June 2010

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

| | | |
|-------------------------------------|---|--------------------------|
| Shelly D. Moeller, an Individual, |) | Opposition No.: 91196825 |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | |
| |) | |
| SHR & Simmons Jewelry Group, LLC, a |) | |
| Delaware Limited Liability Company, |) | |
| |) | |
| Opposer. |) | |
| _____ |) | |

**JOINT RESPONSE TO DEFAULT JUDGMENT NOTICE AND
REQUEST FOR 90 DAY SUSPENSION OF PROCEEDINGS WITH CONSENT**

Plaintiff, Shelly D. Moeller, and Defendant, SHR & Simmons Jewelry Group, LLC, through their respective counsel, hereby jointly respond as follows to the Notice for Default Judgement issued by the Trademark Trial and Appeal Board ("the Board") on June 24, 2011, and request the proceedings be suspended an additional 90 days to allow for the Motion of Express Abandonment filed Concurrently herewith to be reviewed and ruled upon by the Board.

The background of the matter and grounds for the request are as follows:

1. On November 2, 2010, the parties sought and were granted an extension of all trial dates including the deadline for Defendant to Answer which was extended to January 15, 2011. The grounds for the extension was the parties were engaged in ongoing settlement negotiations.

2. On January 14, 2011, the parties sought and were granted an extension of all trial dates including the deadline for Defendant to Answer which was extended to March 16, 2011. The grounds for the extension was the parties were engaged in ongoing settlement negotiations.

3. On March 16, 2011, the parties sought and were granted an extension of all trial dates including the deadline for Defendant to Answer which was extended to May 15, 2011. The grounds for the extension was the parties were engaged in ongoing settlement negotiations.

4. Throughout the proceedings counsel for the parties have on numerous occasions engaged in telephone conversations and email communications in which possible settlement terms were discussed.

5. Through inadvertence, and not for the intentional purpose of delay, neither an Answer was filed by Defendant, nor was another extension requested by Defendant or Plaintiff, by the reset deadline to Answer of May 15, 2011.

6. On June 24, 2011, a Notice for Default Judgment was issued by the Board.

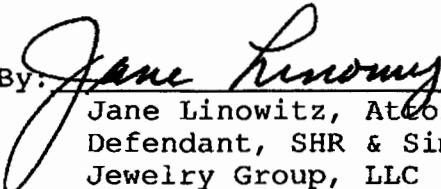
7. The parties have reached settlement of the matter and per the agreed upon settlement terms are filing concurrently with this motion a Motion for Express Abandonment with Consent of U.S. Trademark Application 77917923.

8. As the parties have reached settlement and both parties join in the Joint Response to Default Judgment and Request for 90 Day Suspension of Proceedings with Consent neither party will be prejudiced by granting of the suspension.

Plaintiff and Defendant have provided an e-mail addresses for the parties herewith so that any order on this motion may be issued electronically by the Board.

Respectfully submitted:

Dated: July 18, 2011

By: 
Jane Linowitz, Attorney for
Defendant, SHR & Simmons
Jewelry Group, LLC

LEVISOHN BERGER LLP
11 Broadway, Suite 615
New York, NY 10004-1490
Phone: (212) 486-7272
Fax: (212) 486-0323
Email: jlinowitz@LLBL.com

Dated: July 25, 2011

By: 

DONN K. HARMS, Attorney for
Plaintiff, Shelly D. Moeller
12702 Via Cortina Suite 100
Del Mar, California, 92014
Phone: (858) 509-1400
Fax: (858) 509-1677
Email: Karen@patentpending.com

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing JOINT RESPONSE TO DEFAULT JUDGMENT NOTICE AND REQUEST FOR 90 DAY SUSPENSION OF PROCEEDINGS WITH CONSENT was served upon Opposer by by emailing a copy to Jane Linowitz, or LEVISOHN BERGER LLP, who expressly agreed to service by email, at the following email addresses:

jlinowitz@LLBL.com

on this 25th of July, 2011.


Karen Convery

IN THE MATTER OF:
Application No.: 77917923
Mark: ROCKSTYLE
Int'l. Classes: 014
Filing Date: 22 January 2010
Publication Date: 8 June 2010

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Shelly D. Moeller, an Individual,) Opposition No.: 91196825
)
 Opposer,)
)
 v.)
)
 SHR & Simmons Jewelry Group, LLC, a)
 Delaware Limited Liability Company,)
)
)
 Applicant.)
)

MOTION FOR EXPRESS ABANDONMENT WITH CONSENT

Applicant, with Consent of Opposer, hereby expressly
abandons Trademark Application 77917923.

Respectfully submitted:

Dated: July 18, 2011

By: Jane Linowitz
Jane Linowitz, Attorney for
Defendant, SHR & Simmons
Jewelry Group, LLC
LEVISOHN BERGER LLP
11 Broadway, Suite 615
New York, NY 10004-1490
Phone: (212) 486-7272
Fax: (212) 486-0323
Email: jlinowitz@LLBL.com

Consented to by:

Dated: July 25, 2011

By: DONN K. HARMS, Attorney for

Plaintiff, Shelly D. Moeller
12702 Via Cortina Suite 100
Del Mar, California, 92014
Phone: (858) 509-1400
Fax: (858) 509-1677
Email: Karen@patentpending.com

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing MOTION FOR EXPRESS ABANDONMENT WITH CONSENT was served upon Opposer by by emailing a copy to Jane Linowitz, or LEVISOHN BERGER LLP, who expressly agreed to service by email, at the following email addresses:

jlinowitz@LLBL.com

on this 25th of July, 2011.


Karen Convery